

Message Text

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PAGE 01 SAN JO 03045 230812Z

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ACTION L-03

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USDEL 024

FOR USOAS, ARA AND L - MARK FELDMAN

E.O. 11652: N/A

TAGS: OCON, TZC

SUBJECT: SAN JOSE CONFERENCE - RIO TREATY, ARTICLES 20, 16N5 -)

1. SUMMARY. IN COURSE OF JULY 22 SESSIONS, GENERAL

COMMITTEE ADOPTED TEXTS OF ARTICLES 20 AND 16 (ARTICLES 22 AND 19 OF CEESI DRAFTS), INCLUDING IN FIRST INSTANCE ECUADOREAN LANGUAGE GIVING PARTIES WITH SPECIAL ECONOMIC PROBLEMS RIGHTS TO SEEK HELP FROM ORGAN OF CONSULTATION. NEW ARTICLE11 OF CEESI DRAFT AS WELL AS ARTICLES VII-XIII (FINAL PROVISIONS) ALSO ADOPTED. COLLECTIVE ECONOMIC SECURITY AND AREA OF COVERAGE TO BE DISCUSSED JULY 23. END SUMMARY.

2. ENTIRE MORNING SESSION JULY 22 DEVOTED TO DEBATE ON ARTICLE 20 (ARTICLE 22 IN CEESI DRAFT). ATTEMPTS BY ECUADOR, PERU AND VENEZUELA TO OBTAIN MODIFICATION OF CEESI LANGUAGE

WITH RESPECT TO TREATMENT OF RECOMMENDATIONS RECEIVED ONLY SUPPORT OF THOSE COUNTRIES. HOWEVER, ECUADOREAN PROPOSAL
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TO GIVE CONTRACTING PARTIES THAT ARE ECONOMICALLY DISADVANTAGED

BY SANCTIONS THE RIGHT TO ASK THE ORGAN OF CONSULTATION FOR RELIEF WAS ADOPTED BY VOTE OF 14-0-7 (ABSTAINING WERE U.S., BRAZIL, CHILE, COSTA RICA, PANAMA, HAITI AND ARGENTINA).

3. ECUADOREAN AMENDMENT READS AS FOLLOWS: " IF ANY ONE OF THE HIGH CONTRACTING PARTIES IS FACED WITH SPECIAL ECONOMIC PROBLEMS ARISING OUT OF THE EXECUTION OF SUCH MEASURES, IT SHALL HAVE THE RIGHT OF CONSULTING WITH THE ORGAN OF CONSULTATION CONCERNING THE SOLUTION TO SUCH PROBLEMS." USDEL OPPOSED PROPOSAL IN PART ON PROCEDURAL GROUNDS; IT WAS TOTALLY NEW AND ITS INTRODUCTION AT THIS TIME DID NOT GIVE DELEGATIONS OPPORTUNITY TO CONSULT. WE ALSO NOTED THAT UNLIKE UNSC, WHERE ONLY 15 OF ABOUT 140 MEMBERS WERE REPRESENTED AT ANY ONE TIME, ALL CONTRACTING PARTIES OF RIO TREATY ARE REPRESENTED ON ORGAN OF CONSULTATION. THUS ANALOGY WITH ARTICLE 50 OF OWK UN CHARTER IS NOT JUSTIFIED. USDEL ALSO RAISED QUESTION OF HOW ORGAN OF CONSULTATION SHOULD DEAL WITH SUCH REQUESTS, WHAT PROCEDURES WOULD BE FOLLOWED, ETC. AT OUTSET THERE

APPEARED TO BE CONSIDERABLE OPPOSITION TO PROPOSAL, BUT GUATEMALA AND SEVERAL OTHERS ULTIMATELY DECIDED THAT EVEN IF THE LANGUAGE WAS NOT REALLY NECESSARY -- ANY PARTY COULD ALWAYS RAISE SUCH ISSUES IN ORGAN OF CONSULTATION -- IT CAUSED NO SERIOUS PROBLEMS.

4. ARTICLE 22 AS PROPOSED BY CEESI, AUGMENTED BY ECUADOREAN PROPOSAL, WAS ADOPTED 20-0-4 (US, BRAZIL, CHILE, HAITI) AFTERNOON JULY 22. USDEL ABSTAINED AND REITERATED OUR VIEW THAT PROPOSAL UNNECESSARY AND COULD CAUSE POTENTIAL PROBLEMS FOR ORGAN OF CONSULTATION. COMMENT: WHILE TECHNICALLY THE PROPOSAL PROBABLY DOES NOT SIGNIFICANTLY WEAKEN SANCTIONS, WE ARE CONCERNED THAT AS A PRACTICAL MATTER A SPECIFIC RIGHT OF THIS SORT COULD MAKE IT EASIER FOR A DISSIDENT CONTRACTING PARTY TO CHALLENGE INDIRECTLY THE CONTINUATION OF SANCTIONS, ESPECIALLY AS THERE IS NO PROVISION IN THE TREATY FOR GRANTING AN INDIVIDUAL COUNTRY OR COUNTRIES A DISPENSATION. ALTHOUGH LANGUAGE MIGHT PERMIT INTERPRETATION HOLDING THAT SANCTIONED PARTY HAS RIGHT TO SEEK RELIEF, LEGISLATIVE HISTORY (E.G.,) BASIC IN ARTICLE 50 OF UN CHARTER, MAKES THAT CONSTRUCTION UNTENABLE.
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5. ARTICLE 19, THE PROVISION THAT PROVIDES THAT SANCTIONS MAY BE LIFTED BY MAJORITY VOTE, WAS ADOPTED 20-2-0 (PARAGUAY AND CHILE VOTING NO). DEBATE WAS BRIEF; USDEL MADE SHORT STATEMENT INDICATING ITS BELIEF THAT PROPOSED CHANGE IN VOTING FOR PURPOSES OF RESCINDING MEASURES UNDER ARTICLE 8 WAS A WISE ONE THAT WOULD IMPROVE AND STRENGTHEN THE COLLECTIVE DEFENSE SYSTEM. NO CHANGES WERE MADE IN CEESI LANGUAGE.

6. NEW ARTICLE 11 TO EFFECT THAT NOTHING IN TREATY IS TO BE
INTERPRETED AS LIMITING PRINCIPLE OF NON-INTERVENTION WAS
ADOPTED UNANIMOUSLY WITHOUT SIGNIFICANT DISCUSSION.
MOST OF FINAL PROVISIONS (CEESI DRAFT, ARTICLES VII-XIII)
ADOPTED WITHOUT SUBSTANTIVE CHANGE), ALTHOUGH UNCERTAINTIES
OVER ARTICLES XIV AND XV RESULTED IN CREATION OF SMALL
WORKING GROUP IN WHICH USDEL WILL PARTICIPATE.

7. STATE OF DISCUSSIONS ON COLLECTIVE ECONOMIC SECURITY
BEING REPORTED SEPTEL. ONLY SUBSTANTIVE ISSUES LEFT ARE
COLLECTIVE ECONOMIC SECURITY AND AREA OF COVERAGE. WE HOPE
IN COURSE OF INFORMAL WORKING GROUP (JULY 23) TO COME UP WITH
MUTUALLY ACCEPTABLE SERIES OF COORDINATES FOR AREA OF
COVERAGE.

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